

REMARKS

Applicants submit this Amendment After Final in response to the Final Office Action mailed August 23, 2010. Claims 14-26 are pending in this application, of which claims 23-26 have been withdrawn from consideration. Thus, claims 14-22 are submitted for examination on the merits. By this Reply, Applicants have amended independent claim 14. No new matter has been added.

In the Office Action, the Examiner rejected claims 14-19 and 21-22 under 35 U.S.C. § 102(b) as being anticipated by EP 0978487 ("Adler"). Additionally, the Examiner indicated that claim 20 would be allowable if rewritten in independent form. Applicants that the Examiner for the indication of allowable subject matter.

Applicants respectfully traverse all pending rejections for at least the reasons discussed below.

Rejections Under 35 U.S.C. § 102

Applicants respectfully traverse the rejection of claims 14-19 and 21-22 under 35 U.S.C. § 102(b) as being anticipated by Adler. In order to properly establish that Adler anticipates Applicants' claimed invention under 35 U.S.C. § 102, every element of the claims in issue must be found, either expressly or described under principles of inherency, in that single reference. Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." See M.P.E.P. § 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Adler does not disclose every element recited in amended independent claim 14. Amended independent claim 14 recites, in part, "A burner for a vapour deposition

process, comprising: a central orifice for ejecting a glass precursor material, said central orifice being defined by an exit port having only one contiguous surface, said exit port having a concave shaped cross-section in a radial plane”

In the Office Action, the Examiner asserts that Figures 4 and 4A of Adler depict a central nozzle having a concave cross-section. Specifically, the Examiner asserts, “See figure 4A and 4 of Adler (along with the associated relevant text). 203 is the central orifice with a concave shaped cross section (since it meets the definition set forth in the specification) and 204 is the annular orifice.” Final Office Action at 2. However, orifice 203 of Adler, like orifice 204, is an annular orifice. As depicted in Fig. 4A of Adler, it is defined by two concentric surfaces or walls. The central orifice of Applicants’ claims, on the other hand, is defined by only a single contiguous surface that provides a “concave shaped cross-section.” Thus, Adler does not disclose, “A burner for a vapour deposition process, comprising: a central orifice for ejecting a glass precursor material, said central orifice being defined by an exit port having only one contiguous surface, said exit port having a concave shaped cross-section in a radial plane”

For at least these reasons, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of independent claim 14 under 35 U.S.C. § 102(b) based on Adler. Furthermore, claims 15-22 depend from independent claim 14 and, thus, contain all the elements and recitations thereof. As a result, Applicants similarly request that the Examiner reconsider and withdraw the rejections of claims 15-22 under § 102(b).

Claim Scope

It is to be understood that Applicants are in no way intending to limit the scope of the claims to any exemplary embodiments described in the specification or abstract and/or shown in the drawings. Rather, Applicants believe that they are entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

CONCLUSION

Applicants respectfully request that this Amendment After Final under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 14-22 in condition for allowance. Applicants submit that the proposed amendment of claim 14 does not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner, since all of the elements and their relationships claimed were either earlier claimed or inherent in the claims as examined. Therefore, this Amendment should allow for immediate action by the Examiner.

Furthermore, Applicants respectfully point out that the Final Office Action presented some new arguments as to the application of the art against Applicants' claims. It is respectfully submitted that the entering of the Amendment would allow Applicants to reply to the final rejections and place the application in condition for allowance.

Finally, Applicants submit that the entry of the Amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

In view of the foregoing remarks, Applicants submit that the claims, as amended, are neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicants therefore request the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: November 23, 2010

/Benjamin D. Bailey/
By: _____

Benjamin D. Bailey
Reg. No. 60,539